

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: : Chapter 7
:
E.H. LIQUIDATION CO., LLC f/k/a, :
EXCEL HOMES, LLC, :
Debtor : Case No. 1:10-bk-06192 MDF

**INTERESTED PARTY EXCEL HOMES GROUP, LLC'S
AND DEFENDANT ERIC MERLING'S OPPOSITION TO JOHN J. KING'S
AMENDED MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

AND NOW COMES, Interested Party Excel Homes Group, LLC ("EHG") and Defendant Eric Merling ("Merling"), by and through their counsel, McNees Wallace & Nurick LLC, and make this opposition to John J. King's ("King") amended motion for relief from the automatic stay.

I. BACKGROUND

King alleges that he was hired by Excel Homes, Inc. on March 18, 2011 as a Sales Representative. (Doc. 77, Amended Motion at ¶2). King's allegation seemingly is in error, and it appears that he meant to allege that he was hired by Excel Homes, Inc. on March 2, 2002 (not 2011). (Doc. 86, Scharnhorst's Answer at ¶2). For purposes of the present response, it will be assumed that King was hired by Excel Homes, Inc. on March 2, 2002. Excel Homes, Inc. was a Virginia corporation.

Excel Homes, Inc. was a Virginia corporation that operated a modular home manufacturing operation in Liverpool, PA for a number of years. Excel Homes

Acquisition LLC was formed under the laws of Delaware on November 8, 2004. On December 23, 2004, Excel Homes Acquisition LLC purchased substantially all of the assets of Excel Homes, Inc. Subsequent to December 23, 2004, King became employed by Excel Homes Acquisition LLC. On January 5, 2005, Excel Homes Acquisition LLC changed its name to Excel Homes LLC. On December 31, 2004, after it had sold substantially all of its assets to Excel Homes Acquisition LLC, Excel Homes, Inc. entered into a Liquidation Trust Agreement regarding the liquidation of its assets. On January 3, 2005, Excel Homes, Inc. changed its name to EHI Modular Company, Inc. The liquidating trust for the entity formerly known as Excel Homes, Inc. was completed sometime in 2008 and the entity formerly known as Excel Homes, Inc. no longer continues to exist. From December 23, 2004 through May 3, 2010, the modular business operations were conducted by Excel Homes LLC.

Excel Homes LLC became financially distressed as a result of the collapse of the housing market and eventually defaulted under the agreements with its lenders. Citizens Bank of Pennsylvania, as agent for itself and M & I Marshall & Ilsley Bank, foreclosed on the assets of Excel Homes LLC. Effective May 3, 2010, H.I.G. Excel, LLC purchased certain assets from Citizens Bank as part of the UCC foreclosure sale, and received all such assets free and clear of all liens and claims pursuant to 13 Pa. C.S.A. § 9617. H.I.G. Excel, LLC did not assume any liability or obligation of Excel Homes LLC as part of the UCC foreclosure sale. H.I.G. Excel, LLC subsequently changed its name to Excel Homes Group, LLC ("EHG").

Subsequent to the foreclosure proceeding, Excel Homes LLC changed its name to E.H. Liquidation Co., LLC (responding parties will continue to refer to the entity as Excel Homes LLC for the sake of consistency). An involuntary petition for bankruptcy

was filed against Excel Homes LLC on July 29, 2010, which was not opposed by Excel Homes LLC.

King claims that Excel Homes LLC failed to pay him certain commissions on orders that he had allegedly received, but for which payment had not been made prior to his voluntary resignation from Excel Homes LLC. King bases his claim on a Policy Statement dated August 22, 2003, which was issued by Excel Homes, Inc. prior to the acquisition completed in December 2004 by Excel Homes LLC. King has not produced any Policy Statement regarding any commissions policy promulgated by Excel Homes LLC. Excel Homes LLC rejected King's claim for commissions on the basis that the policy in effect at the time King voluntarily resigned required that payments be received before any commissions were paid. Excel Homes LLC, though its then president, Steven Scharnhorst, made the decision to enforce the then current policy and not pay King any commissions on orders he had obtained for which payments were not received at the time of his voluntary resignation. Eric Merling, the then Director of Sales of Excel Homes LLC, communicated this decision to King. King subsequently sued Excel Homes LLC, Scharnhorst and Merling in the Court of Common Pleas for Northumberland County.

At the time EHG took over possession of the locations previously operated by Excel Homes LLC, it discovered that there were a significant amount of documents and files abandoned by Excel Homes LLC. EHG has no interest in these documents, and it is causing EHG to incur additional expense storing these documents abandoned by Excel Homes LLC. Unfortunately, since Excel Homes LLC has no remaining employees and no apparent assets, it appears very unlikely that Excel Homes LLC will ever remove these documents from EHG's premises. Further, the Trustee has expressed no interest in retrieving these documents from EHG. Consequently, whenever a creditor of Excel Homes LLC or some other third party has requested documents of Excel Homes LLC, it has

required EHG to go to the trouble of first seeking the Trustee's permission as to whether this creditor or third party is even entitled to access the documents, and then if access is granted, EHG has had to incur the expense of facilitating the production of these documents. As will be discussed in the following section, to the extent that the Court grant's King relief from the automatic stay, EHG submits that the Court should modify and/or condition the relief so as to deal with the very real issue of a how to deal with document requests directed to a Debtor who appears to have no assets and no representative that is even able to respond to document and other discovery requests.

II. BASIS FOR OPPOSITION

A. King's Claim Should Be Adjudicated In The Present Bankruptcy Proceeding.

Defendant Scharnhorst has previously filed a succinct and well articulated objection to King's Amended Motion on the basis that King's claim that he is entitled to additional commissions should be resolved in the present Bankruptcy proceeding. (Doc. 86). Defendant Eric Merling joins in and adopts Scharnhorst's argument in its entirety. King elected to file a priority wage claim in the present Bankruptcy proceeding. Under the circumstances, this Court should decide whether King has any right to wages/commissions for orders he obtained where no payment was received prior to his voluntary termination. To the extent that this Court rejects King's claim, then such a ruling would collaterally estop King from proceeding with his State Court Action. Conversely, if King were permitted to first proceed with the State Court Action against Scharnhorst and Merling rather than proceed with his wage claim in this Bankruptcy proceeding, he would still be entitled to pursue his wage claim against the Debtor even if he lost his claim against Scharnhorst and King since res judicata would not apply to a claim against a Debtor who did not participate in the State Court proceeding. For

purposes of judicial efficiency, the merits of King's claim should be resolved in this Court.

B. King Should Be Precluded From Taking Discovery Directed To The Debtor And Required To Incur All Expenses Associated With Any Discovery Related To The Debtor's Documents And Files.

It is highly probable that if the Court permits King to proceed with the State Court Action against Excel Homes LLC, Scharnhorst and/or Merling, which it should not, King will seek discovery from Excel Homes LLC of seek documents related to Excel Homes LLC's business operations. This could become very problematic since there is no one from Excel Homes LLC available to respond to discovery. Although Excel Homes LLC abandoned its files and documents at the locations now operated by EHG, these files remain the property of Excel Homes LLC and EHG should not be required to spend its time going through hundreds of boxes of documents and files attempting to locate documents related to Excel Homes LLC's prior business operations. Considering that the Trustee has yet to locate any assets for Excel Homes LLC, it is apparent that he has no interest in taking possession of Excel Homes LLC's files and responding to any discovery requests.

EHG raises this issue as a result of prior discovery problems and difficulties in a separate matter where the Court granted relief from the automatic stay without placing any conditions on discovery directed to Excel Homes LLC. In Garzon v. Excel Homes LLC, et. al., C.C.P. Philadelphia County, PA No. 110100866, the plaintiff moved for relief from the automatic stay, which was granted by Order of this Court dated April 8, 2011. Although the Court limited the relief to the available insurance proceeds, no provision was made for the handling of discovery in the underlying state court action. Subsequent to this Court's Order of April 8, 2011, Garzon served discovery requests

upon Excel Homes LLC. However, there was no one from Excel Homes LLC available to answer the discovery requests, and as such, no timely response was served on Garzon's counsel. Garzon's counsel then filed a motion to compel against Excel Homes LLC. On July 19, 2011, the Court of Common Pleas of Philadelphia County entered the following Order directed in part to Excel Homes LLC:

UPON CONSIDERATION OF PLAINTIFF'S MOTION TO COMPEL DISCOVERY, AND GOOD CAUSE BEING SHOWN, IT IS HEREBY ORDERED AND DECREED THAT DEFENDANTS VANCE LEONE, EXCEL HOMES, LLC AND E.H. LIQUIDATION CO., LLC F/K/A EXCEL HOMES LLC, SHALL PROVIDE FULL, COMPLETE AND DISCREET ANSWERS TO PLAINTIFF'S INTERROGATORIES AND DOCUMENTS REQUESTS ADDRESSED TO DEFENDANTS VANCE LEONE, EXCEL HOMES, LLC AND E.H. LIQUIDATION CO., LLC F/K/A EXCEL HOMES LLC WITHIN TWENTY (20) DAYS OF THE DATE OF THIS ORDER OR RISK IMPOSITION OF SANCTIONS. SIGNED BY JUDGE WILLIAM J. MANFREDI, JULY 19, 2011.

See Exhibit A, Garzon docket report at entry for July 19, 2011. As a result of the state court Order threatening sanctions against Excel Homes LLC if it did not respond to the interrogatories and document requests, the attorney retained by the insurance company to defend Excel Homes LLC was in a very difficult predicament since he had a Court Order requiring that he respond to discovery requests, but he had no client representative to answer the interrogatories, nor did he have a client representative who could review the files of Excel Homes LLC to produce any of the requested documents. Consequently, he requested EHG's assistance in responding to the discovery since Excel Homes LLC's files are still located at the premises operated by EHG. EHG had no authority to release any documents to the attorney for Excel Homes LLC, which required the involvement of the Trustee to address how the files were going to be released to the attorney for Excel Homes LLC. The entire process consumed a significant amount of EHG's time, which went unreimbursed.

EHG has no interest in any of the litigation involving Excel Homes LLC and would prefer that the Trustee make arrangements to have all of Excel Homes LLC's documents and files removed from EHG's premises. If such were to take place, then EHG would have no interest in how parties with claims against Excel Homes LLC conducted discovery directed to Excel Homes LLC. However, as long as the abandoned documents remain on the premises operated by EHG, there is a significant concern as to the time and expense EHG will need to spend dealing with discovery related to claims against Excel Homes LLC.

EHG suggests that the Court fashion any relief to take into consideration that Excel Homes LLC has no employees and no representative, and has no ability to respond to any discovery requests. EHG suggests that any Order granting relief from the automatic stay expressly state that no discovery will be direct to Excel Homes LLC and no State Court has the power to issue any order compelling Excel Homes LLC to respond to discovery or suffer sanctions for failure to respond.

Further, the Court should consider that EHG has no interest in the claims against Excel Homes LLC, and should not be forced to essentially respond to discovery on behalf of Excel Homes LLC. At a minimum, if King wants documents that were abandoned by Excel Homes LLC, it should incur the full expense of obtaining those documents, including compensating EHG for the time it takes to locate and produce such documents.

This Court should exercise its inherent power and ability to modify or condition the stay to protect Excel Homes LLC from responding to discovery and prevent EHG from being forced to incur the time and expense associated with any discovery directed to the documents and files possessed by Excel Homes LLC. See 11 U.S.C 362(d)(". . .

the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—"). See e.g. In re Johns-Manville Corp., 26 B.R. 420 (S.D.N.Y. Bkrtcy 1983), affirmed 40 B.R. 219, appeal allowed, vacated in part 41 B.R. 926 (Court limited discovery directed to Debtor). The present case is a prime example of the type of case where the Court should modify and/or condition the stay relief to prevent the inevitable discovery problems associated with a Debtor that seemingly has no assets and no employees/representatives.

III. CONCLUSION

For all of the foregoing reasons, Interested Party Excel Homes Group, LLC and Defendant Eric Merling respectfully request that the Court deny the motion for relief from the automatic stay, or alternatively, condition the relief to preclude King from seeking discovery from Excel Homes LLC and to also require King to incur the full expense of all discovery that requires EHG to spend time and money locating and producing documents abandoned by Excel Homes LLC.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By: /s/Jonathan H. Rudd

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Attorneys for Interested Party
Excel Homes Group, LLC and Defendant Eric Merling

Date: October 24, 2011

EXHIBIT A

Case Description

Related Cases

Case Event Schedule

Case motions

Case Parties

Case 1:10-bk-06192-MDF Document 32 Filed 10/24/11 Entered 10/24/11 17:50:08 Desc Main Document Page 10 of 28

		PHILADELPHIA PA 19102 (215)790-7300			
2	1		PLAINTIFF	@6832612	GARZON, JOSE
Address:	2307 W.CORTEZ CHICAGO IL 60622		Aliases:	none	
3	10		DEFENDANT	@6832613	LEONE, VANCE
Address:	174 W. MAIN STREET LOGANTON PA 17747		Aliases:	none	
4		09-MAY- 2011	DEFENDANT	@6832614	EXCEL HOMES GROUP, LLC FORMERLY EXCEL HOMES LLC
Address:	300 CORPORATE CENTER DRIVE #602 CAMP HILL PA 17011		Aliases:	none	
5		09-MAY- 2011	DEFENDANT	@6832615	EXCEL HOMES LLC D/B/A EXCEL HOMES GROUP, LLC
Address:	300 CORPORATE CENTER DRIVE #602 CAMP HILL PA 17011		Aliases:	none	
6		09-MAY- 2011	DEFENDANT	@6832616	H.I.G. EXCEL, LLC FORMERLY EXCEL HOMES LLC
Address:	300 CORPORATE CENTER DRIVE #602 CAMP HILL PA		Aliases:	none	

	17011				
7		09-MAY-2011	DEFENDANT	@6832617	EXCEL HOMES LLC D/B/A H.I.G. EXCEL, LLC
Address:	300 CORPORATE CENTER DRIVE #602 CAMP HILL PA 17011		Aliases:	none	
8			TEAM LEADER	J280	MANFREDI, WILLIAM J
Address:	510 CITY HALL PHILADELPHIA PA 19107 (215)686-2606		Aliases:	none	
9	1		ATTORNEY FOR PLAINTIFF	A309758	MONROE, MATTHEW C
Address:	SHELLER PC 1528 WALNUT STREET 3RD FLOOR PHILADELPHIA PA 19102 (215)790-7300		Aliases:	none	
10		08-AUG-2011	ATTORNEY FOR DEFENDANT	A32330	BRACAGLIA, THOMAS P
Address:	MARSHALL, DENNEHEY, WARNER 1845 WALNUT STREET PHILADELPHIA PA 19103-4797 (215)575-4558		Aliases:	none	
11	10	08-AUG-	ATTORNEY	A201095	BUCHANICO, JOANNA

		2011	FOR DEFENDANT		D
Address:	MARSHALL DENNEHEY WARNER COLEM 1845 WALNUT STREET, 21ST FLOOR PHILADELPHIA PA 19103 (215)575-2603		Aliases:	none	
12	1		ATTORNEY FOR PLAINTIFF	A44715	KRAMER, GERARD C
Address:	209 STATE ST HARRISBURG PA 17101 (717)232-6300		Aliases:	none	
13	1		ATTORNEY FOR PLAINTIFF	A70242	COOPER, SCOTT B
Address:	209 STATE ST. HARRISBURG PA 17101 (717)232-6300		Aliases:	none	
14	16		DEFENDANT	@6954999	EXCEL HOMES LLC
Address:	300 CORPORATE CENTER DRIVE #602 CAMP HILL PA 17011		Aliases:	none	
15	16		DEFENDANT	@6955000	EH LIQUIDATION CO LLC
Address:	300 CORPORATE CENTER DRIVE #602 CAMP HILL PA 17011		Aliases:	EXCEL HOMES LLC	

16			ATTORNEY FOR DEFENDANT	A92502	CLEIN, LAUREN R
Address:	THOMAS, THOMAS & HAER 1600 JFK BLVD SUITE 620 PHILADELPHIA PA 19103 (215)564-2928		Aliases:	none	
17	16		ATTORNEY FOR DEFENDANT	A72668	MCNAMARA, KEVIN C
Address:	305 NORTH FRONT STREET PO BOX 999 HARRISBURG PA 17108 (717)237-7132		Aliases:	none	
18	10		ATTORNEY FOR DEFENDANT	A32330	BRACAGLIA, THOMAS P
Address:	MARSHALL, DENNEHEY, WARNER 1845 WALNUT STREET PHILADELPHIA PA 19103-4797 (215)575-4558		Aliases:	none	

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/ Entry Date
07-JAN-2011 10:51 AM	ACTIV - ACTIVE CASE			07-JAN-2011 11:00 AM
Docket	E-Filing Number: 1101008820			

Entry:				
07-JAN-2011 10:51 AM	CIVIJ - COMMENCEMENT CIVIL ACTION JURY	SHELLER, JAMIE L		07-JAN-2011 11:00 AM
Docket Entry:	<i>none.</i>			
07-JAN-2011 10:51 AM	WRSUM - PRAE TO ISSUE WRIT OF SUMMONS	SHELLER, JAMIE L		07-JAN-2011 11:00 AM
Docket Entry:	PRAECIPE TO ISSUE WRIT OF SUMMONS FILED. WRIT OF SUMMONS ISSUED.			
07-JAN-2011 10:51 AM	SSCG5 - SHERIFF'S SURCHARGE 5 DEFTS	SHELLER, JAMIE L		07-JAN-2011 11:00 AM
Docket Entry:	<i>none.</i>			
07-JAN-2011 10:51 AM	JURYT - JURY TRIAL PERFECTED	SHELLER, JAMIE L		07-JAN-2011 11:00 AM
Docket Entry:	12 JURORS REQUESTED.			
07-JAN-2011 10:51 AM	CLWCM - WAITING TO LIST CASE MGMT CONF	SHELLER, JAMIE L		07-JAN-2011 11:00 AM
Docket Entry:	<i>none.</i>			
11-FEB-2011 09:46 AM	SHSRV - SHERIFF'S SERVICE	SHELLER, JAMIE L		11-FEB-2011 09:50 AM
Docket Entry:	DEPUTIZED SERVICE OF PLAINTIFF'S WRIT OF SUMMONS UPON H.I.G. EXCEL, LLC FORMERLY EXCEL HOMES LLC, EXCEL HOMES LLC D/B/A H.I.G. EXCEL, LLC, EXCEL HOMES LLC D/B/A EXCEL HOMES GROUP, LLC AND EXCEL HOMES GROUP, LLC FORMERLY EXCEL HOMES LLC BY SHERIFF OF CUMBERLAND COUNTY ON 01/26/2011.			

04-MAR-2011 12:52 PM	CMPLT - COMPLAINT FILED NOTICE GIVEN	SHELLER, JAMIE L		04-MAR-2011 01:37 PM
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED. (FILED ON BEHALF OF JOSE GARZON)			
07-MAR-2011 12:48 PM	CLLCM - LISTED FOR CASE MGMT CONF			07-MAR-2011 12:48 PM
Docket Entry:	<i>none.</i>			
07-MAR-2011 02:12 PM	SHSRV - SHERIFF'S SERVICE	MONROE, MATTHEW C		07-MAR-2011 02:12 PM
Docket Entry:	DEPUTIZED SERVICE OF PLAINTIFF'S WRIT OF SUMMONS UPON VANCE LEONE BY SHERIFF OF CLINTON COUNTY ON 02/03/2011. (FILED ON BEHALF OF JOSE GARZON)			
09-MAR-2011 12:32 AM	CLNGV - NOTICE GIVEN			09-MAR-2011 12:32 AM
Docket Entry:	<i>none.</i>			
14-MAR-2011 02:08 PM	ENAPP - ENTRY OF APPEARANCE FILED	BRACAGLIA, THOMAS P		14-MAR-2011 02:12 PM
Docket Entry:	ENTRY OF APPEARANCE OF THOMAS P BRACAGLIA AND JOANNA D BUCHANICO FILED. (FILED ON BEHALF OF VANCE LEONE)			
14-MAR-2011 02:08 PM	JURYT - JURY TRIAL PERFECTED			14-MAR-2011 02:12 PM
Docket Entry:	12 JURORS REQUESTED.			
14-MAR-2011 02:40 PM	CLDBR - DEFERRED - BANKRUPTCY	BUCHANICO, JOANNA D		14-MAR-2011 02:55 PM
Docket	PRAECIPE TO DEFER CASE DUE TO PENDING BANKRUPTCY ACTION UNDER CASE NUMBER: 1:10-BK-06192 (FILED ON BEHALF			

Entry:		OF VANCE LEONE)		
16-MAR-2011 12:33 AM	CLNGV - NOTICE GIVEN			16-MAR-2011 12:33 AM
Docket Entry:	none.			
22-MAR-2011 03:30 PM	ENAPC - ENTRY OF APPEARANCE-CO COUNSEL	KRAMER, GERARD C		23-MAR-2011 07:30 AM
Docket Entry:	ENTRY OF APPEARANCE OF SCOTT B COOPER AND GERARD C KRAMER AS CO-COUNSEL FILED. (FILED ON BEHALF OF JOSE GARZON)			
23-MAR-2011 11:20 AM	AFDVT - AFFIDAVIT OF SERVICE FILED	MONROE, MATTHEW C		23-MAR-2011 12:28 PM
Docket Entry:	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON EXCEL HOMES GROUP, LLC FORMERLY EXCEL HOMES LLC BY CERTIFIED MAIL ON 03/14/2011 FILED. (FILED ON BEHALF OF JOSE GARZON)			
23-MAR-2011 11:27 AM	AFDVT - AFFIDAVIT OF SERVICE FILED	MONROE, MATTHEW C		23-MAR-2011 12:30 PM
Docket Entry:	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON EXCEL HOMES LLC D/B/A EXCEL HOMES GROUP, LLC BY CERTIFIED MAIL ON 03/14/2011 FILED. (FILED ON BEHALF OF JOSE GARZON)			
23-MAR-2011 11:32 AM	AFDVT - AFFIDAVIT OF SERVICE FILED	MONROE, MATTHEW C		23-MAR-2011 11:33 AM
Docket Entry:	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON H.I.G. EXCEL, LLC FORMERLY EXCEL HOMES LLC BY CERTIFIED MAIL ON 03/14/2011 FILED. (FILED ON BEHALF OF JOSE GARZON)			
23-MAR-2011 11:41 AM	AFDVT - AFFIDAVIT OF SERVICE FILED	MONROE, MATTHEW C		23-MAR-2011 12:47 PM
Docket Entry:	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON EXCEL HOMES LLC D/B/A H.I.G. EXCEL, LLC BY CERTIFIED MAIL ON 03/14/2011 FILED. (FILED ON BEHALF OF JOSE GARZON)			

24-MAR-2011 03:38 PM	CLECD - EVENT CANCELLED-CASE DEFERRED	THOMPSON, STANLEY		24-MAR-2011 03:38 PM
Docket Entry:	<i>none.</i>			
25-MAR-2011 12:31 AM	CLNGV - NOTICE GIVEN			25-MAR-2011 12:31 AM
Docket Entry:	<i>none.</i>			
03-MAY-2011 04:56 PM	CLRDS - REMOVED FROM DEFERRED STATUS			04-MAY-2011 12:00 AM
Docket Entry:	<i>none.</i>			
03-MAY-2011 04:57 PM	CLRDS - REMOVED FROM DEFERRED STATUS	MONROE, MATTHEW C		04-MAY-2011 07:36 AM
Docket Entry:	PRAECIPE TO REMOVE CASE FROM DEFERRED STATUS FILED. (FILED ON BEHALF OF JOSE GARZON)			
05-MAY-2011 11:26 AM	CLWCM - WAITING TO LIST CASE MGMT CONF			05-MAY-2011 12:00 AM
Docket Entry:	<i>none.</i>			
09-MAY-2011 03:47 PM	CLLCM - LISTED FOR CASE MGMT CONF			09-MAY-2011 03:47 PM
Docket Entry:	<i>none.</i>			
09-MAY-2011 04:51 PM	STPLT - STIPULATION FILED	MONROE, MATTHEW C		10-MAY-2011 07:19 AM
	STIPULATION TO AMEND THE CAPTION TO REFLECT THE CORRECT			

Docket Entry:	IDENTITY OF THE DEFENDANT AS E.H. LIQUIDATION CO. LLC F/K/A EXCEL HOMES LLC FILED. (FILED ON BEHALF OF JOSE GARZON)			
11-MAY-2011 12:31 AM	CLNGV - NOTICE GIVEN			11-MAY-2011 12:31 AM
Docket Entry:	<i>none.</i>			
16-MAY-2011 04:46 PM	PROBJ - PRELIMINARY OBJECTIONS	BRACAGLIA, THOMAS P		17-MAY-2011 08:44 AM
Docket Entry:	94-11051594 PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT FILED. RESPONSE DATE: 06/06/2011 (FILED ON BEHALF OF EH LIQUIDATION CO LLC, EXCEL HOMES LLC AND VANCE LEONE)			
17-MAY-2011 05:15 PM	CMREI - PRAECIPE TO REINSTATE CMPLT	MONROE, MATTHEW C		18-MAY-2011 07:09 AM
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF JOSE GARZON)			
31-MAY-2011 03:28 PM	CLCCC - CASE MGMT CONFERENCE COMPLETED	SALTER, PAUL		31-MAY-2011 03:28 PM
Docket Entry:	<i>none.</i>			
31-MAY-2011 03:28 PM	CMOIS - CASE MANAGEMENT ORDER ISSUED			31-MAY-2011 03:28 PM
	CASE MANAGEMENT ORDER EXPEDITED TRACK - AND NOW, 31-MAY-2011, it is Ordered that: 1. The case management and time standards adopted for expedited track cases shall be applicable to this case and are hereby incorporated into this Order. 2. All discovery on the above matter shall be completed not later than 02-JAN-2012. 3. Plaintiff shall identify and submit curriculum vitae and expert reports of all expert witnesses intended to testify at trial to all other parties not later than 02-JAN-2012. 4. Defendant and any additional defendants shall identify and submit curriculum vitae and expert reports of all expert witnesses intended to testify at trial not later than 06-FEB-2012. 5. All pre-trial motions shall be			

Docket Entry:	filed not later than 06-FEB-2012. 6. A settlement conference may be scheduled at any time after 06-FEB-2012. Prior to the settlement conference all counsel shall serve all opposing counsel and file a settlement memorandum containing the following: (a) A concise summary of the nature of the case if plaintiff or of the defense if defendant or additional defendant;(b) A statement by the plaintiff or all damages accumulated, including an itemization of injuries and all special damages claimed by categories and amount; (c) Defendant shall identify all applicable insurance carriers, together with applicable limits of liability. 7. A pre-trial conference will be scheduled any time after 02-APR-2012. Fifteen days prior to pre-trial conference, all counsel shall serve all opposing counsel and file a pre-trial memorandum containing the following: (a) A concise summary of the nature of the case if plaintiff or the defense if defendant or additional defendant; (b) A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial; (c) A list of all exhibits the party intends to offer into evidence. All exhibits shall be pre-numbered and shall be exchanged among counsel prior to the conference. Counsel should expect any exhibit not listed to be precluded at trial; (d) Plaintiff shall list an itemization of injuries or damages sustained together with all special damages claimed by category and amount. This list shall include as appropriate, computations of all past lost earnings and future lost earning capacity or medical expenses together with any other unliquidated damages claimed; and (e) Defendant shall state in position regarding damages and shall identify all applicable insurance carriers, together with applicable limits of liability; (f) Each counsel shall provide an estimate of the anticipated length of trial. 8. It is expected that the case will be ready for trial 07-MAY-2012, and counsel should anticipate trial to begin expeditiously thereafter. 9. All counsel are under a continuing obligation and are hereby ordered to serve a copy of this order upon all unrepresented parties and upon all counsel entering an appearance subsequent to the entry of this order. ...BY THE COURT: WILLIAM MANFREDI, J.			
31-MAY-2011 03:28 PM	ZR236 - NOTICE GIVEN UNDER RULE 236			03-JUN-2011 03:58 PM
Docket Entry:	NOTICE GIVEN ON 03-JUN-2011 OF CASE MANAGEMENT ORDER ISSUED ENTERED ON 31-MAY-2011.			
31-MAY-2011 03:28 PM	CLLSC - LISTED FOR SETTLEMENT CONF			31-MAY-2011 03:28 PM
Docket Entry:	none.			

31-MAY-2011 03:28 PM	CLLPT - LISTED FOR PRE-TRIAL CONF			31-MAY-2011 03:28 PM
Docket Entry:	<i>none.</i>			
31-MAY-2011 03:28 PM	CLLTR - LISTED FOR TRIAL			31-MAY-2011 03:28 PM
Docket Entry:	<i>none.</i>			
02-JUN-2011 05:34 PM	PROBJ - PRELIMINARY OBJECTIONS	SHELLER, JAMIE L		03-JUN-2011 08:56 AM
Docket Entry:	56-11060356 PRELIMINARY OBJECTIONS TO DEFENDANTS' PRELIMINARY OBJECTIONS FILED. RESPONSE DATE: 06/23/2011 (FILED ON BEHALF OF JOSE GARZON)			
08-JUN-2011 02:03 PM	PODUD - PREL OBJECT- RESP DATE UPDATED			08-JUN-2011 02:03 PM
Docket Entry:	94-11051594 PRELIMINARY OBJECTIONS MOTION RESPONSE DATE UPDATED TO 06/23/2011.			
09-JUN-2011 03:43 PM	AFDVT - AFFIDAVIT OF SERVICE FILED			09-JUN-2011 04:03 PM
Docket Entry:	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON EXCEL HOMES LLC BY PERSONAL SERVICE ON 06/03/2011 FILED.			
09-JUN-2011 03:45 PM	AFDVT - AFFIDAVIT OF SERVICE FILED			09-JUN-2011 04:03 PM
Docket Entry:	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON EH LIQUIDATION CO LLC BY PERSONAL SERVICE ON 06/03/2011 FILED.			
15-JUN-2011 03:18 PM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		15-JUN-2011 03:21 PM
Docket Entry:	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE LEONE)			

15-JUN-2011 03:20 PM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		15-JUN-2011 03:25 PM
Docket Entry:	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE LEONE)			
15-JUN-2011 03:23 PM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		16-JUN-2011 07:16 AM
Docket Entry:	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE LEONE)			
15-JUN-2011 03:27 PM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		15-JUN-2011 03:46 PM
Docket Entry:	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE LEONE)			
22-JUN-2011 11:20 AM	REPO - REPLY- PRELIM. OBJECT. FILED	BRACAGLIA, THOMAS P		23-JUN-2011 09:04 AM
Docket Entry:	56-11060356 REPLY IN OPPOSITION OF PRELIMINARY OBJECTIONS FILED. (FILED ON BEHALF OF EH LIQUIDATION CO LLC, EXCEL HOMES LLC AND VANCE LEONE)			
24-JUN-2011 03:54 PM	REPO - REPLY- PRELIM. OBJECT. FILED	MONROE, MATTHEW C		27-JUN-2011 02:25 PM
Docket Entry:	94-11051594 REPLY IN OPPOSITION OF PRELIMINARY OBJECTIONS FILED. (FILED ON BEHALF OF JOSE GARZON)			
27-JUN-2011 01:11 PM	POASN - PRELIM OBJECTIONS ASSIGNED			27-JUN-2011 01:11 PM
Docket Entry:	94-11051594 PRELIMINARY OBJECTIONS ASSIGNED TO JUDGE: MANFREDI, WILLIAM J. ON DATE: JUNE 27, 2011			
27-JUN-2011 01:11 PM	POASN - PRELIM OBJECTIONS ASSIGNED			27-JUN-2011 01:11 PM

Docket Entry:	56-11060356 PRELIMINARY OBJECTIONS ASSIGNED TO JUDGE: MANFREDI, WILLIAM J. ON DATE: JUNE 27, 2011			
29-JUN-2011 10:05 AM	ORDER - ORDER ENTERED/236 NOTICE GIVEN	MANFREDI, WILLIAM J		29-JUN-2011 10:05 AM
Docket Entry:	56-11060356 IT IS ORDERED THAT PLAINTIFF'S PRELIMINARY OBJECTIONS ARE OVERRULED. PLAINTIFF SHALL FILE AN ANSWER TO DEFENDANTS' PRELIMINARY OBJECTIONS WITHIN 20 DAYS HEREOF. ...BY THE COURT; MANFREDI, J. 6-29-11			
29-JUN-2011 10:05 AM	ZR236 - NOTICE GIVEN UNDER RULE 236			29-JUN-2011 03:49 PM
Docket Entry:	NOTICE GIVEN ON 29-JUN-2011 OF ORDER ENTERED/236 NOTICE GIVEN ENTERED ON 29-JUN-2011.			
29-JUN-2011 10:06 AM	PODUD - PREL OBJECT-RESP DATE UPDATED			29-JUN-2011 10:06 AM
Docket Entry:	94-11051594 PRELIMINARY OBJECTIONS MOTION RESPONSE DATE UPDATED TO 07/19/2011.			
01-JUL-2011 03:37 PM	DSCIM - DISCOVERY HEARING REQST FILED	MONROE, MATTHEW C		05-JUL-2011 08:48 AM
Docket Entry:	DISCOVERY HEARING REQUEST FILED IN RE: MOTION TO COMPEL ANSWERS AND PRODUCTION OF DOCUMENTS. HEARING SCHEDULED FOR: JULY 19, 2011 AT 09:00 IN ROOM 646 CITY HALL. (FILED ON BEHALF OF JOSE GARZON)			
05-JUL-2011 03:45 PM	ANPRO - ANSWER TO PRELIMINARY OBJCTNS	MONROE, MATTHEW C		06-JUL-2011 02:47 PM
Docket Entry:	94-11051594 ANSWER IN OPPOSITION OF PRELIMINARY OBJECTIONS FILED. (FILED ON BEHALF OF JOSE GARZON)			
15-JUL-2011 12:03 PM	DSCIM - DISCOVERY HEARING REQST FILED	BUCHANICO, JOANNA D		15-JUL-2011 12:35 PM
Docket Entry:	DISCOVERY HEARING REQUEST FILED IN RE: MOTION TO COMPEL ANSWERS AND PRODUCTION OF DOCUMENTS. HEARING SCHEDULED FOR: JULY 26, 2011 AT 09:00 IN ROOM 646 CITY HALL.			

(FILED ON BEHALF OF VANCE LEONE)				
19-JUL-2011 11:43 AM	ORDER - ORDER ENTERED/236 NOTICE GIVEN	MANFREDI, WILLIAM J		19-JUL-2011 12:00 AM
Docket Entry:	UPON CONSIDERATION OF PLAINTIFF'S MOTION TO COMPEL DISCOVERY, AND GOOD CAUSE BEING SHOWN, IT IS HEREBY ORDERED AND DECREED THAT DEFENDANTS VANCE LEONE, EXCEL HOMES, LLC AND E.H. LIQUIDATION CO., LLC F/K/A EXCEL HOMES LLC, SHALL PROVIDE FULL, COMPLETE AND DISCREET ANSWERS TO PLAINTIFF'S INTERROGATORIES AND DOCUMENTS REQUESTS ADDRESSED TO DEFENDANTS VANCE LEONE, EXCEL HOMES, LLC AND E.H. LIQUIDATION CO., LLC F/K/A EXCEL HOMES LLC WITHIN TWENTY (20) DAYS OF THE DATE OF THIS ORDER OR RISK IMPOSITION OF SANCTIONS. SIGNED BY JUDGE WILLIAM J. MANFREDI, JULY 19, 2011			
19-JUL-2011 11:43 AM	ZR236 - NOTICE GIVEN UNDER RULE 236			19-JUL-2011 03:00 PM
Docket Entry:	NOTICE GIVEN ON 19-JUL-2011 OF ORDER ENTERED/236 NOTICE GIVEN ENTERED ON 19-JUL-2011.			
21-JUL-2011 11:19 AM	POASN - PRELIM OBJECTIONS ASSIGNED			21-JUL-2011 11:19 AM
Docket Entry:	94-11051594 PRELIMINARY OBJECTIONS ASSIGNED TO JUDGE: MANFREDI, WILLIAM J. ON DATE: JULY 21, 2011			
03-AUG-2011 11:33 AM	ORDER - ORDER ENTERED/236 NOTICE GIVEN	MANFREDI, WILLIAM J		03-AUG-2011 11:34 AM
Docket Entry:	94-11051594 IT IS ORDERED THAT THE PARTIES SHALL WITHIN THIRTY (30) DAYS OF THE DATE OF THIS ORDER, CONDUCT DISCOVERY ON THE ISSUES OF SERVICE AND VENUE. SUPPLEMENTAL MEMORANDA AND EXHIBITS THERETO SHALL BE FILED WITHIN TEN (10) DAYS THEREAFTER. ...BY THE COURT; MANFREDI, J. 8-3-11			
03-AUG-2011 11:33 AM	ZR236 - NOTICE GIVEN UNDER RULE 236			05-AUG-2011 11:33 AM

Docket Entry:	NOTICE GIVEN ON 05-AUG-2011 OF ORDER ENTERED/236 NOTICE GIVEN ENTERED ON 03-AUG-2011.			
03-AUG-2011 11:44 AM	PODUD - PREL OBJECT-RESP DATE UPDATED			03-AUG-2011 11:44 AM
Docket Entry:	94-11051594 PRELIMINARY OBJECTIONS MOTION RESPONSE DATE UPDATED TO 09/12/2011.			
05-AUG-2011 01:48 PM	WTAPP - WITHDRAWAL/ENTRY OF APPEARANCE	CLEIN, LAUREN R		08-AUG-2011 08:18 AM
Docket Entry:	WITHDRAWAL OF APPEARANCE OF THOMAS P BRACAGLIA AND JOANNA D BUCHANICO AND ENTRY OF APPEARANCE OF LAUREN R CLEIN AND KEVIN C MCNAMARA FILED. (FILED ON BEHALF OF EH LIQUIDATION CO LLC AND EXCEL HOMES LLC)			
08-AUG-2011 04:29 PM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		09-AUG-2011 07:06 AM
Docket Entry:	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE LEONE)			
08-AUG-2011 04:31 PM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		09-AUG-2011 07:05 AM
Docket Entry:	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE LEONE)			
09-AUG-2011 09:18 AM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		09-AUG-2011 09:38 AM
Docket Entry:	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE LEONE)			
10-AUG-2011 08:55 AM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		10-AUG-2011 08:57 AM
Docket	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE			

Entry: LEONE)				
17-AUG-2011 08:25 AM	MTEXR - MOT-FOR EXTRAORDINARY RELIEF	CLEIN, LAUREN R		17-AUG-2011 01:06 PM
Docket Entry:	86-11082086 MOTION SUBMITTED UNOPPOSED (FILED ON BEHALF OF EH LIQUIDATION CO LLC AND EXCEL HOMES LLC)			
18-AUG-2011 11:28 AM	MTASN - MOTION ASSIGNED			18-AUG-2011 11:28 AM
Docket Entry:	86-11082086 MOT-FOR EXTRAORDINARY RELIEF ASSIGNED TO JUDGE: MANFREDI, WILLIAM J. ON DATE: AUGUST 18, 2011			
30-AUG-2011 09:31 AM	CERTI - CERTIFICATION FILED	BRACAGLIA, THOMAS P		30-AUG-2011 09:33 AM
Docket Entry:	CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED. (FILED ON BEHALF OF VANCE LEONE)			
08-SEP-2011 09:41 AM	ORDER - ORDER ENTERED/236 NOTICE GIVEN	MANFREDI, WILLIAM J		08-SEP-2011 09:41 AM
Docket Entry:	86-11082086 UPON CONSIDERATION OF THE UNOPPOSED PETITION FOR EXTRAORDINARY RELIEF, IT IS ORDERED THAT THE DEADLINES IN THE ORDER OF AUGUST 3, 2011 ARE EXTENDED BY THIRTY (30) DAYS. ...BY THE COURT; MANFREDI, J. 9-8-11			
08-SEP-2011 09:41 AM	ZR236 - NOTICE GIVEN UNDER RULE 236			13-SEP-2011 12:09 PM
Docket Entry:	NOTICE GIVEN ON 13-SEP-2011 OF ORDER ENTERED/236 NOTICE GIVEN ENTERED ON 08-SEP-2011.			
08-SEP-2011 09:43 AM	PODUD - PREL OBJECT- RESP DATE UPDATED			08-SEP-2011 09:43 AM
Docket Entry:	94-11051594 PRELIMINARY OBJECTIONS MOTION RESPONSE DATE UPDATED TO 10/12/2011.			

06-OCT-2011 09:22 AM	STPLR - STIPULATION FILED	MCNAMARA, KEVIN C		06-OCT-2011 04:24 PM
Docket Entry:	94-11051594 STIPULATION TO RESOLVE PRELIMINARY OBJECTIONS FILED. AWAITING JUDICIAL APPROVAL (FILED ON BEHALF OF EH LIQUIDATION CO LLC, EXCEL HOMES LLC AND VANCE LEONE)			
14-OCT-2011 02:54 PM	POASN - PRELIM OBJECTIONS ASSIGNED			14-OCT-2011 02:54 PM
Docket Entry:	94-11051594 PRELIMINARY OBJECTIONS ASSIGNED TO JUDGE: MANFREDI, WILLIAM J. ON DATE: OCTOBER 14, 2011			
19-OCT-2011 10:03 AM	ORDER - ORDER ENTERED/236 NOTICE GIVEN	MANFREDI, WILLIAM J		19-OCT-2011 10:03 AM
Docket Entry:	94-11051594 IT IS ORDERED THAT THE PRELIMINARY OBJECTIONS AS TO VENUE AND SERVICE OF PROCESS HAVE BEEN RESOLVED BY AGREEMENT. IN ACCORDANCE WITH THE PARTIES STIPULATION, ALL PUNITIVE DAMAGES CLAIMS STATED IN THE COMPLAINT ARE WITHDRAWN WITHOUT PREJUDICE PENDING CLOSURE OF DISCOVERY. THE DEFENDANTS SHALL FILE THEIR ANSWER WITHIN 30 DAYS OF THE DATE OF THIS ORDER. ...BY THE COURT; MANFREDI, J. 10-19-11			
19-OCT-2011 10:03 AM	ZR236 - NOTICE GIVEN UNDER RULE 236			19-OCT-2011 03:11 PM
Docket Entry:	NOTICE GIVEN ON 19-OCT-2011 OF ORDER ENTERED/236 NOTICE GIVEN ENTERED ON 19-OCT-2011.			

CERTIFICATE OF SERVICE

I, Jonathan H. Rudd, hereby certify that on this 24th day of October, 2011, a true and correct copy of the foregoing document was served electronically via the Court's ECF System, on the date set forth below, upon the following:

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/s/Jonathan H. Rudd
Jonathan H. Rudd